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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/974,514	10/09/2001	Hidetoshi Kabasawa	JCLA8093	7324

23900 7590 12/20/2004

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EXAMINER

KLIMOWICZ, WILLIAM JOSEPH

ART UNIT	PAPER NUMBER
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2652

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/974,514

**Applicant(s)**

KABASAWA, HIDETOSHI

**Examiner**

William J. Klimowicz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 8 and 12-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Status***

Claims 1-7 and 9-11 have been voluntarily cancelled by the Applicants.

Claims 8 and 12-16 are currently pending.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 8 and 12-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Maeda et al. (US 6,262,961 B1).

As broadly set forth in claim 8, Maeda et al. (US 6,262,961 B1) discloses a recording medium loading apparatus (e.g., FIGS. 1 and 2), comprising: a recording medium transfer mechanism (including holder (100)), for transferring an inserted recording medium (e.g., bare disc or disc encased in cartridge) between an eject position (e.g., FIG. 12) and a loaded position (e.g., FIGS. 14, 15); a driving device (e.g., including 111, 112a, 13a, 13) for driving the recording medium transfer mechanism (100); and a control device (e.g., state of media detection switch, which detects the state of the inserted media - e.g., see control chart of FIG. 11, which summaries in part the means for controlling the loading action - via holder (100), by way of a

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detection switch) is provided for controlling the driving device, wherein between the eject position and a loading start position (e.g., a position in which a medium [bare disc or cartridge] has been loaded into the apparatus just enough to trigger the switches to either proceed with holder loading, or prohibit or stop it as per FIG. 11, e.g., by a user inserting the medium into holder (100)) in front of the insertion direction of the recording medium (e.g., the "insertion direction" is the direction in which the medium is loaded into the holder along the direction of arrows shown in FIG. 12, and thus the eject position and the loading start position, as articulated, *supra*, are "in front" of the insertion direction when moving from left to right in FIGS. 12.), the control device (e.g., MPU 34) performs a control process such that the driving device (e.g., including 111, 112a, 13a, 13) generates a driving force having a magnitude (e.g., magnitude of zero) that the recording medium transfer mechanism (100) is not operated (e.g., see FIG. 11, under the column of "Loading action" of "Stop" or "Prohibit" such that the loading action of holder (100) is "stopped" or "prohibited." More concretely, the switches XCTL representing switch (115) and switch XOP representing switch (114) are used by the MPU to either "Stop" the loading action, "Prohibit" the loading action or allow the loading action to proceed. When the holder (11) transfer mechanism receives a signal from switch (115) that indicates that switch (115) has indeed toggled on by the initial manual introduction of the medium into the holder (100), yet switch (114) remains a null, the loading action as determined by the processor (34) prohibits the loading action for either the bare disc or the cartridge as per FIG. 11. That is the driving device (e.g., including 111, 112a, 13a, 13) is controlled in a manner to generate a force (possibly of net magnitude zero) for precluding the loading of the transfer mechanism into the holder.

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As per claim 12, further comprising: a base (e.g., 8) with a recording medium driving means (2) for rotationally driving the recording medium (e.g., 300 or 301); a clamper mechanism (e.g., 26, 27) for clamping the recording medium on the recording medium driving means (2); and a recording medium determination means (e.g., including 114, 115) for determining a recording medium type (e.g., bare or in cartridge) of the inserted recording medium (300, 301), wherein when the recording medium type is determined by the recording medium determination means (e.g., including 114, 115), and after the recording, medium transfer mechanism is activated to transfer the recording medium to a proper loaded position corresponding to the determined recording medium type (e.g., 30, 301), the control device activates the clamper mechanism (25, 26) to clamp the recording medium on the recording medium driving means (2) (e.g., see FIGS. 13(a) through 15(b)).

As per claim 13, wherein the recording medium transfer mechanism (100) further comprises: a holder (100); and a carrier (e.g., including (107)) capable of recording mediums of different types and movably supported on the holder (100), wherein the recording medium (30, 301) is transported between the eject position (FIG. 12) and the loaded position (FIG. 14, 15), wherein the clamper mechanism (25, 26) moves one of the holder (100) and the base (8) to approximate the other one, so as to clamp the recording medium (300, 301) on the recording medium driving means (2).

As per claim 14, wherein the recording medium determination means (e.g., including 114, 115) is constructed to determine whether an inserted disc is a disc-shaped recording medium received within a cartridge (300) or a disc-shaped recording medium without being received within a cartridge (301).

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As per claim 15, wherein the recording medium determination means (e.g., including 114, 115) is constructed to determine whether an inserted disc is a disc-shaped recording medium with a diameter of 8cm, or a disc-shaped recording medium with a diameter of 12cm (e.g., see *inter alia*, COL. 11, line 65 through COL. 12, line 7).

As per claim 16, wherein the control device controls the driving device (e.g., including 111, 112a, 13a, 13) to generate the driving force with a magnitude that the recording medium transferring mechanism (100) is operated only by the driving force of the driving device (e.g., including 111, 112a, 13a, 13) between the aforementioned loading start position to the loaded position (FIG. 14, 15).

### ***Response to Arguments***

Applicant's arguments filed September 24, 2004 have been fully considered but they are not persuasive.

The Applicants contend:

According to FIG. 11 of the Maeda reference, it uses switches XCTL, XOP to detect the medium type and status while putting or inserting the recording medium into the holder. In this way, the Maeda reference can determine the exact timing of starting the loading action. In other words, the loading action, i.e., the disc transferring device is activated only when the medium type is determined and exactly inserted or put into the holder.

In contrast, according to the present invention, claim 8 recites "between the eject position and a loading start position in front of the insertion direction of the recording medium, the control device performs a control process *such that the driving device generates a driving force having a magnitude that the recording medium transfer mechanism is not operated*". That is, the feature of *the driving device generates a driving force having a magnitude that the recording medium transfer mechanism is not operated* is not disclosed, suggested or taught in the Maeda reference. According to the Maeda references its recording medium transfer mechanism **will be operated**, rather than "**not operated**".

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See page 6 of the Response filed by the Applicant on September 24, 2004

The Examiner respectfully disagrees with the Applicant's interpretation of Maeda et al. (US 6,262,961 B1). More concretely, Maeda et al. (US 6,262,961 B1) does indeed disclose wherein the control device (e.g., state of media detection switch, which detects the state of the inserted media - e.g., see control chart of FIG. 11, which summaries in part the means for controlling the loading action - via holder (100), by way of a detection switch) is provided for controlling the driving device, wherein between the eject position and a loading start position (e.g., a position in which a medium [bare disc or cartridge] has been loaded into the apparatus just enough to trigger the switches to either proceed with holder loading, or prohibit or stop it as per FIG. 11, e.g., by a user inserting the medium into holder (100)) in front of the insertion direction of the recording medium (e.g., the "insertion direction" is the direction in which the medium is loaded into the holder along the direction of arrows shown in FIG. 12, and thus the eject position and the loading start position, as articulated, *supra*, are "in front" of the insertion direction when moving from left to right in FIGS. 12.), the control device (e.g., MPU 34) performs a control process such that the driving device (e.g., including 111, 112a, 13a, 13) generates a driving force having a magnitude (e.g., magnitude of zero) that the recording medium transfer mechanism (100) is not operated (e.g., see FIG. 11, under the column of "Loading action" of "Stop" or "Prohibit" such that the loading action of holder (100) is "stopped" or "prohibited." More concretely, the switches XCTL representing switch (115) and switch XOP representing switch (114) are used by the MPU to either "Stop" the loading action, "Prohibit" the loading action or allow the loading action to proceed. When the holder (11) transfer mechanism receives a signal from switch (115) that indicates that switch (115) has

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indeed toggled on by the initial manual introduction of the medium into the holder (100), yet switch (114) remains a null, the loading action as determined by the processor (34) prohibits the loading action for either the bare disc or the cartridge as per FIG. 11. That is the driving device (e.g., including 111, 112a, 13a, 13) is controlled in a manner to generate a force (possibly of net magnitude zero) for precluding the loading of the transfer mechanism into the holder.

Pertaining to the claims rejected under 35 U.S.C. § 102 as being anticipated by the disclosure of Maeda et al. (US 6,262,961 B1) the following should be noted. Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); *cert. dismissed*, 468 U.S. 1228 (1984); *W.L. Gore and Associates, Inc. v. Garlock, Inc.*, 72.1 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

The Examiner, as clearly articulated in the rejection, *supra*, has set forth a one-to-one correspondence with each and every element of the *claimed* invention. More concretely, as recited MPEP§2106:

Office personnel are to give claims their ***broadest reasonable interpretation*** in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). ***Limitations appearing in the specification but not recited in the claim are not read into the claim.*** *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (“During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow. . . . The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. . . . An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as



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much as possible, during the administrative process.”). [Emphasis in bold italics added].

Moreover, one must also bear in mind that limitations contained within Applicant’s arguments cannot be read into the claims for the purpose of avoiding prior art. *In re Sporck*, 386 F.2d 924, 155 USPQ 687 (CCPA 1968).

As set forth in the MPEP§ 706, “the standard to be applied in all cases is the “preponderance of the evidence” test. In other words, an examiner should reject a claim if, in view of the prior art and evidence of record, it is more likely than not that the claim is unpatentable.” Clearly, the Examiner has established that one of ordinary skill in the art would *reasonably* construe the one-to-one correspondence with each and every element of the *claimed* invention, in the manner set forth in the rejection, *supra*, by at least the *preponderance* of the evidence. The Applicant’s arguments have fallen well short of rebutting the Examiner’s *prima facie* case of anticipation.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period

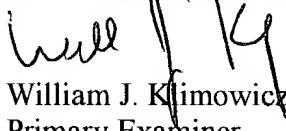
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (703) 305-3452. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William J. Klimowicz  
Primary Examiner  
Art Unit 2652

WJK